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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TRUSTEES OF THE CONSTRUCTION
INDUSTRY AND LABORERS HEALTH
AND WELFARE TRUST; TRUSTEES OF
THE CONSTRUCTION INDUSTRY AND
LABORERS JOINT PENSION TRUST;
TRUSTEES OF THE CONSTRUCTION
INDUSTRY AND LABORERS
VACATION TRUST; AND TRUSTEES
OF THE SOUTHERN NEVADA
LABORERS LOCAL 872 TRAINING
TRUST,

Plaintiffs,

vs.

PRO-CUT LLC, a Nevada Limited Liability
Company,

Defendants.

Case No. 2:12-cv-00205-GMN-VCF

**STIPULATION TO REOPEN CASE FOR
LIMITED PURPOSE OF REVIEWING
SUBJECT MATTER JURISDICTION**

STIPULATION

Plaintiffs and Evelyn Bruns-Witt ("Bruns-Witt"), Bentar Development, Inc. ("Bentar"), CM Builders ("CM Builders"), Forte Specialty Contractors, LLC ("Forte"), and Aegis Security Insurance Company ("Aegis") stipulate and agree to the following:

1. On or about August 9, 2013, this Court entered judgment against Defendant Pro-Cut LLC ("Pro-Cut") and in favor of Plaintiffs in the amount of \$416,478.00 (the "Pro-Cut Judgment").
2. After August 9, 2013, Pro-Cut filed for bankruptcy protection.

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3. On or about July 2, 2014, Plaintiffs filed an action in the United States District Court District of Nevada, Case No. 2:14-CV-01087-MMD-PAL, against Bruns-Witt, Bentar, CM Builders, Forte, Aegis and others (the "2014 Action").
4. In the 2014 Action, Plaintiffs have asserted a claim for relief against Pro-Cut member and manager Bruns-Witt on a theory of ERISA fiduciary liability premised on Pro-Cut Judgment.
5. Also in the 2014 Action, Plaintiffs have asserted claims for relief against Pro-Cut higher-tier contractors Bentar, CM Builders, Forte, and Aegis on a theory of statutory liability under NRS 608.150 premised on the Pro-Cut Judgment.
6. The parties to this stipulation agree that Bruns-Witt, Bentar, CM Builders, Forte and Aegis may move for relief from judgment for lack of subject matter jurisdiction based on their privity with Pro-Cut or as permissive intervenors under FRCP 24(b).
7. The parties to this stipulation agree and request that this case be reopened for the limited purpose of considering a contested motion for relief from judgment brought under FRCP 60(b)(4) for lack of subject matter jurisdiction to be filed jointly by Bruns-Witt, Bentar, CM Builders, Forte and Aegis, and to be opposed by Plaintiffs.
8. The parties believe a reasonable schedule for briefing the motion would be as follows:
 - Joint Motion for Relief From Judgment to be filed on or before April 10, 2015;
 - Opposition to Joint Motion for Relief From Judgment to be filed on or before May 1, 2015; and
 - Joint Reply to Opposition to Motion for Relief From Judgment to be filed on or before May 15, 2015.

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9. In the interest of judicial economy and saving litigation costs, if the Court enters the requested order on this stipulation, the parties will request an extension of the discovery deadlines in the 2014 Action so this Court may first decide the issue of subject matter jurisdiction in this action before substantial time and money is spent litigating the 2014 Action.

Respectfully submitted this 21st day of January, 2015:

THE URBAN LAW FIRM

/s/ Nathan R. Ring
NATHAN R. RING, ESQ.
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Attorneys for Plaintiffs

PEEL BRIMLEY, LLP

/s/ Michael T. Gebhart
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KAJIOKA & ASSOCIATES

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NOAH G. ALLISON

/s/ Noah G. Allison
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Nevada Bar No. 6202
Attorneys for Evelyn Bruns-Witt

ORDER

Based on the above Stipulation, the Court orders:

1. This case shall be reopened for the limited purpose of hearing a motion challenging this Court's subject matter jurisdiction.
2. The moving parties, Bruns-Witt, Bentar, CM Builders, Forte and Aegis may bring the motion challenging subject matter jurisdiction.
3. A Joint Motion for Relief from Judgment shall be filed by the moving parties no later than April 10, 2015.

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- 1 4. An Opposition to the Joint Motion for Relief from Judgment shall be filed by Plaintiffs no later
2 than May 1, 2015.
- 3 5. A Joint Reply to the Opposition shall be filed by the moving parties no later than May 15, 2015.
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5 **IT IS SO ORDERED.**

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8 Gloria M. Navarro, Chief Judge
9 United States District Court

10 **DATED: 04/15/2015**

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